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6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 vs.

11 JAN ROUVEN FUECHTENER,

12 Defendant.

CASE NO.: 2:16-CR-100-GMN-CWH

OBJECTION TO SEALED ORDER #240

13 Defendant herein, JAN ROUVEN FUECHTENER, by and through his attorney of record,
14 KAREN A. CONNOLLY, of the law office of KAREN A. CONNOLLY, LTD., hereby submits this
15 **EMERGENCY OBJECTION TO SEALED ORDER #240** pursuant to Local Rule 1B 301.

16 Jan Rouven Fuechtener (“Fuechtener”) has pled guilty to: one count of Possession of Child
17 Pornography in violation of 18 USC § 2252(a)(5)(B), one count of Receipt of Child Pornography
18 in violation of 18 USC § 2252A(a)(2) and (b), and one count of Distribution of child Pornography
19 in violation of 18 USC § 2252A(a)(2) and (b). On June 22, 2017, Fuechtener filed a Motion to
20 Withdraw Guilty Plea. The matter has been set for an evidentiary hearing on March 9, 2018.
21 Honorable Gloria Navarro has indicated that at that time she will hear testimony for relevant
22 witnesses in support of the motion to withdraw his guilty plea.

23 As set forth in the motion to withdraw and subsequent pleadings, (ECF No. 194, 221) it was
24 not his lawyers but an inmate who advised Fuechtener of his exposure under the stipulated guideline
25 range, after he had entered his plea. Fuechtener was unaware of his exposure prior to that
26 discussion. That inmate is Bret Humphries who is in federal custody housed in Pahrump.

27 Counsel for Fuechtener has been trying to secure Humphries’ presence at the evidentiary
28 hearing set for March 9, 2018. The magistrate has denied all of counsel’s attempts to procure his

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1 presence even though he is an essential witness.

2 Most recently an Ex parte Request for Writ of Habeas Corpus Ad Testificandum for Bret
3 Humphries (ECF No. 239) was denied (ECF No. 240) Therein the magistrate indicated that counsel
4 had previously attempted to obtain a FRCP 17(b) subpoena for Humphries. The magistrate denied
5 that request even though in the request it was stated Humphries was an essential witness. Attempts
6 to procure Humphries presence were not made earlier because he was hospitalized and had not
7 conferred with his counsel; it was not known if he would be available to testify on March 9, 2018,
8 which would have caused Fuechtener to request a continuance. Since time is of the essence, and
9 undersigned recognized that the proper manner of procuring Humphries' presence was an Ex parte
10 Request for Writ of Habeas Corpus Ad Testificandum, said request was submitted instead of an
11 objection to the order denying motion for issuance of subpoena for Bret Humphries (ECF No. 238).

12 Accordingly, it is respectfully requested that this court overrule Sealed Order 240 and issue
13 the Writ of Habeas Corpus Ad Testificandum for the body of Bret Humphries . If denied, a request
14 to continue the evidentiary hearing will be forthcoming.

15 DATED this 6th day of March, 2018.

KAREN A. CONNOLLY, LTD.

/s/ Karen A. Connolly
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of KAREN A. CONNOLLY, LTD., and on the 6th day of March, 2018, I served a true and correct copy of the above and foregoing ***Objection to Sealed Order #240*** via the CM/ECF system upon the following:

- 5** by depositing the same in the U.S. Mail, First Class Mail, with postage fully prepaid, at Las
6 Vegas, Nevada, addressed as follows:

Cristina D. Silva, United States Attorney
Daniel D. Hollingsworth, United States Attorney
Elham Roohani, United States Attorney
Lisa Cartier-Giroux, United States Attorney
Mark E. Woolf, United States Attorney
Ivette A. Maningo, Attorney for Frank Alster (Interested Party)

/s/ Shaeley Pilayo
an Employee of KAREN A. CONNOLLY, LTD.

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